




# KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	<b>SECTION NUMBER</b>  <b>10-128</b>	<b>PAGE NUMBER</b>  <b>1 of 4</b>
		<b>SUBJECT:</b>  <b>PROGRAMS AND SERVICES: Development and Implementation of Private Prison Based and Private Non-Prison Based Industry Employment Programs</b>	
<b>Approved By:</b>  <b>Secretary of Corrections</b>		<b>Original Date Issued:</b> <b>03-04-85</b>	
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		<b>Replaces Amendment Issued:</b> <b>12-07-02</b>	
<b>Reissued By:</b>  <b>Policy &amp; Procedure Coordinator</b>		The substantive content of this IMPP has been reissued as per the appropriate provisions of IMPP 01-101. The only modifications within the reissue of this document concern technical revisions of a non substantive nature. <b>Date Reissued:</b> <b>06-13-11</b>	

## POLICY

The Department supports and encourages the utilization of private industry to supplement traditional inmate work opportunities. (ACO 2-5A-01; ACI 3-4397, 3-4398) Efforts shall be made to ensure that new private industry programs do not negatively impact workers employed by interested private companies or available workers in the locality of the host correctional facility.

Under the authority of K.S.A. 75-5288 private industry work programs may be established to provide inmate employment opportunities to learn job skills and develop good work habits and attitudes that inmates can apply to jobs after they are released. Such programs shall comply fully with applicable local, State, and Federal health and safety regulations and standards, and applicable departmental policies and procedures. Whether operating in a community setting or on the grounds of a correctional facility, private industry employment programs shall be considered work release in accordance with K.A.R. 44-8-115 and 44-8-116. (ACI 3-4398)

## DEFINITIONS

Parent Company or Private Industry: An individual, firm, corporation, or other lawful entity submitting a proposal to operate or which has been approved to employ inmates pursuant to K.A.R. 44-8-115 or 44-8-116.

P.I.E.C.P.: A Prison Industry Enhancement Certification Program, which is administered by the U.S. Bureau of Justice Assistance pursuant to 18 U.S.C. 1761 Sec. 819.

Private Industry Employment Program: The term used to refer generally and collectively to private prison based and private non-prison based employment programs.

Private Non-Prison Based Employment: Inmate employment for a private industry outside a correctional facility pursuant to K.A.R. 44-8-115.

Private Prison Based Employment: Inmate employment for a private industry, which operates on the grounds of a correctional facility pursuant to K.A.R. 44-8-116.

## PROCEDURES

**I. Initiating Private Industry Employment Programs**

- A. The Deputy Director of Kansas Correctional Industries shall provide information on private industry employment programs to all interested private companies and promote the establishment of new agreements between private companies and the Department of Corrections for the employment of inmates.
- B. Prior to signing any agreements with private companies for the employment of inmates, and on an annual basis for the duration of any agreement that may subsequently be signed, the Department shall:
  - 1. Request the results of a surplus worker study and wage survey conducted by the Kansas Department of Human Resources to:
    - a. Determine the prevailing wages in the locality.
    - b. Determine if there are surplus workers in the locality in the type of jobs to be utilized by the private industry program.
  - 2. Require written certification from the private company that the agreement will neither negatively impact nor displace employees of that company in any other Kansas community.
  - 3. Require documentation from the private company of its recruitment efforts during the past six months for hiring civilians for the same type jobs that will be offered to inmates if the agreement is signed. This only applies to private companies that have existing operations in one or more Kansas communities.
- C. The agreement shall provide that the Balance of State Average Lowest Tenth Percentile Wage as reported by the Kansas Department of Human Resources for similar types of work shall be the minimum amount paid to private industry inmate employees in all P.I.E.C.P. designated cost centers. (ACI 3-4408)
- D. The agreement shall allow for wages paid by the private industry to be placed into the trust account of the inmate employee.
- E. The agreement shall allow for the provision of Worker's Compensation coverage to all inmate employees under all applicable laws of the State of Kansas.
  - 1. The agreement shall specifically state that no inmate employee shall be considered an employee of the State of Kansas for any other purposes.
- F. The agreement shall stipulate that the work to be performed by inmate employees will not be the cause of the displacement of any civilian employees of the private company.
  - 1. The program shall not employ inmates in skills, crafts, or trades in which there is a surplus of available labor in the locality, or impair existing contracts for services.
- G. If the private company intends to ship goods in interstate commerce and will be a prison-based industry, it shall be designated as a P.I.E.C.P. cost accounting center by the Secretary of Corrections prior to the employment of inmates by the company.
  - 1. Deputy Director of Kansas Correctional Industries shall ensure that all program requirements of P.I.E.C.P. are met on each cost accounting center.
  - 2. A compliance review will be conducted periodically by the Bureau of Justice Assistance.

**II. Operating Private Industry Employment Programs**

- A. All private industry employment programs shall be in compliance with all applicable Federal and State statutes and regulations prior to commencing operations, particularly in the areas of interstate commerce, involvement of Federal funds, and equal employment opportunity.
  - 1. Such programs shall comply fully with all local, State and Federal health and safety regulations and standards.
  - 2. Such programs shall comply fully with all applicable departmental policies and procedures, and, facility general orders regarding security, health and safety.
- B. No private industry employment program established shall introduce any material which would be considered environmentally hazardous nor introduce any tools or implements which would compromise facility security (as determined by the warden).
- C. The parent company shall be required to consent to a routine background investigation and security clearance for all on-site employees (project supervisors).
  - 1. In addition, these employees shall be required to complete orientation, basic and annual training programs as designated by the warden of the host facility and in accordance with IMPP 03-104.

### **III. Leasing of Space and Equipment for Private Industry Employment Programs**

- A. Once a private prison based employment proposal has been approved, the Department shall enter into a formal agreement for the leasing of space on the premises of the facility for the purpose of operating a private prison based employment program.
  - 1. The formal agreement shall outline all appropriate guidelines and any operational considerations deemed necessary by the parent company, the warden of the host facility, and/or the Deputy Director of Kansas Correctional Industries.
  - 2. No private prison based employment program shall begin operations in a facility until a written agreement for the lease of space and the observance of operational guidelines and requirements has been negotiated and signed.
    - a. The rental charge and the charges for utilities shall be negotiated between the warden of the host facility, the Deputy Director of Kansas Correctional Industries, and the private company.
      - (1) The negotiated agreement shall be subject to approval by the Secretary of Corrections in consultation with the Deputy Director of Kansas Correctional Industries and the Chief Legal Counsel.
    - b. The need for improvements to the leased space, equipment or request for additional space must have prior approval from the warden of the host facility. The warden shall consult with the Deputy Director of Kansas Correctional Industries and the Deputy Secretary of Facility Management or staff designated by the Deputy Secretary.
      - (1) The warden of the host facility shall attempt to provide inmate labor for improvements or additions when it is feasible to do so.
- B. In the event that a private industry desires to lease equipment from Kansas Correctional Industries, the terms for the lease shall be negotiated by the Deputy Director of Kansas Correctional Industries and the representative of the private industry.

1. The lease agreement shall outline all appropriate guidelines and any operational considerations deemed necessary by the company, the warden of the host facility, and the Deputy Director of Kansas Correctional Industries.
2. No private industry employment program shall begin operations until a written agreement for the lease of equipment has been negotiated and signed.

#### **IV. Nature of Private Industry Employment Programs**

- A. Participation of inmates in private industry employment programs shall be pursuant to K.A.R. 44-8-114 through 44-8-116 and procedures established by IMPP 15-101.
  1. Prior to placement of an inmate in any private industry employment program, due consideration shall be given to the custody and security requirements inherent to that particular program.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

#### **REPORTS REQUIRED**

None.

#### **REFERENCES**

K.S.A. 75-3738, 75-3744, 75-5210, 75-5211, 75-5267, 75-5268, 75-5288, 75-5289  
K.A.R. 44-8-114, 44-8-115, 44-8-116  
ACO 2-5A-01  
ACI 3-4397, 3-4398, 3-4408  
18 U.S.C. 1761, Sec. 819  
IMPP 03-104, 15-101

#### **ATTACHMENTS**

None.